

<p style="text-align: right;">Page 62</p> <p>1 DAVID SAPERSTEIN 2 keeps in the normal course of business or was it 3 created for the lawsuit or something else? 4 A This particular record was created for 5 the lawsuit. 6 Q Is it a summary of amounts that are on 7 the actual paystubs? 8 A More information appears on the 9 paystubs than does in this report. 10 Q But it does itemize the gross and net? 11 A That's correct. 12 Q Then if we look at Exhibit 6. 13 (Handing.) 14 Is that a paystub for Mr. Pena or a 15 copy? 16 A It's a reproduction of a paystub 17 generated by PC Payroll for Windows. 18 Q This says it's for pay date August 19 3rd, 2007, period ending July 29th, '07. Do 20 you see that? 21 A Yes. 22 Q Do you know if at that time Mr. Pena 23 was being paid exclusively by check? 24 A Yes. 25 Q He was?</p>	<p style="text-align: right;">Page 63</p> <p>1 DAVID SAPERSTEIN 2 A Yes. 3 Q When you were a supervisor, did you 4 personally hand out the pay to the workers? 5 A Rare occasions, but yes. 6 Q When you were a supervisor, who 7 normally did that? 8 A Raj. 9 Q On what types of occasions did you do 10 that? What were the rare occasions, 11 circumstances? 12 A If Raj was sick, if Raj was on 13 vacation or if I just happened to be going there 14 for another reason. 15 Q While you were supervisor, did the 16 workers -- did any of the workers give a written 17 receipt for the cash? 18 A Not that I'm aware of, no. 19 Q Do you know if Raj ever gotten written 20 receipts for cash? 21 A Not that I'm aware of. 22 Q And how about after you took over the 23 payroll, did workers ever provide written 24 receipts for cash that they got? 25 A Not that I'm aware of.</p>
<p style="text-align: right;">Page 64</p> <p>1 DAVID SAPERSTEIN 2 Q Do you know if any of the workers were 3 ever asked to give a receipt for the cash? 4 A Let me actually back up on that one. 5 Edison Alvarez actually gave Sam some form of 6 acknowledgment that he received cash. 7 Q Aside from that, are you aware of any 8 kind of cash or acknowledgment that workers gave 9 or were asked to give? 10 A No. 11 Q When you were supervisor, did 12 employees who worked the same number of hours in 13 a week get the same amount of cash? For 14 example, if there were two employees that 15 worked, say, 72 hours, they both worked 72 hours 16 in a given week, did they get the same amount of 17 cash? 18 A I don't know. I wasn't doing payroll 19 at that time. 20 Q What about when you started doing 21 payroll? 22 A It depended. Since their pays were 23 based on net, it depended on how many 24 deductions. If their nets were the same, their 25 pay was the same.</p>	<p style="text-align: right;">Page 65</p> <p>1 DAVID SAPERSTEIN 2 Q As part of your job, do you look at or 3 go through time cards, the time cards 4 themselves? 5 MS. MEYERS: Objection. When? 6 MR. BERNSTEIN: At any time. 7 A It doesn't really matter, no. Let me 8 back up. I occasionally glance at them. If I'm 9 at a location, I might just glance just to make 10 sure they're being used. 11 Q When you say to make sure they're 12 being used, you mean that the employees -- 13 A Are punching in and out. 14 Q Have you found times when employees 15 are not punching in and out every time they're 16 supposed to? 17 A Occasionally. They also refused to 18 punch in and out for lunch when we attempted to 19 get them to do that. 20 Q Okay. We'll get to that. 21 A Okay. 22 Q Occasionally, if I understand you 23 correctly, there are missing punch-ins or 24 punch-outs that you've seen? 25 A Yes.</p>

<p style="text-align: right;">Page 66</p> <p>1 DAVID SAPERSTEIN 2 Q I should say time cards that you've 3 seen with a missing punch-in or punch-out time? 4 A Yes. 5 Q When the punch-in or punch out-time is 6 missing, how, if at all, are the employees' 7 hours figured for that day? 8 A It was up to Raj. Raj was the one 9 that knew when they were coming and going. He 10 was the one that determined what time they got 11 there and what time they left. 12 Q Now, you said that employees refused 13 to punch in and out for a lunch break; am I 14 correct? 15 A Refused might have been a wrong word. 16 Q Okay. They didn't do it? 17 A Unable to do it might be a better 18 choice of words. 19 Q Tell me what you remember about that. 20 A At some point, I had requested Raj to 21 get the employees to punch in and out whenever 22 they left the garage. 23 Q Not just for lunch but whatever? 24 A My choice of words was "whatever," but 25 it meant lunch, and Raj understood that. And we </p>	<p style="text-align: right;">Page 67</p> <p>1 DAVID SAPERSTEIN 2 just couldn't -- could not get them to do it. 3 They either forgot, they didn't want to do it; 4 for whatever reason, they did not do it. 5 Q Do you recall when you -- 6 MR. BERNSTEIN: Can you repeat the 7 last answer and question. 8 (Whereupon, the requested portion was 9 read back by the court reporter: Q, tell me 10 what you remember about that? A, at some 11 point I had requested Raj to get the 12 employees to punch in and out whenever they 13 left the garage. Q, Not just for lunch but 14 whatever? A, My choice of words was 15 'whatever,' but it meant lunch, and Raj 16 understood that. And we just couldn't -- 17 could not get them to do it. They either 18 forgot, they didn't want to do it; for 19 whatever reason, they did not do it.) 20 BY MR. BERNSTEIN: 21 Q How were workers told to punch in and 22 out for lunch? 23 A Verbally. 24 Q By you or Raj? 25 A By Raj.</p>
<p style="text-align: right;">Page 68</p> <p>1 DAVID SAPERSTEIN 2 Q Was that something you asked Raj to 3 do? 4 A Yes. 5 Q When did that happen? 6 A It was more than one request, and they 7 were made sometime in the early part -- early 8 and mid part of 2004. 9 Q And what caused you to ask Raj to do 10 that? 11 A The time cards were not reflecting 12 that they were going out, so I needed -- I 13 needed that to happen. 14 Q And how do you know that the time 15 cards were not reflecting that? 16 A Raj told me. 17 Q What did he tell you about that? 18 A That after the first time I had asked 19 him to get them to punch in and out for when 20 they left the garage, I asked him if they were 21 doing it, he said no. After the second time I 22 asked him to do it, I asked him again, the same 23 question, he said no. 24 Q Do you know if Raj did anything 25 besides asking the workers to punch in and out </p>	<p style="text-align: right;">Page 69</p> <p>1 DAVID SAPERSTEIN 2 for lunch? Did he take any other steps to see 3 to it that they did that? 4 A I don't know. 5 Q Did you ask him to take any other 6 steps besides telling the workers to punch in 7 and out for lunch? 8 A I did tell him that if they don't do 9 it, they're going to receive reprimands for it. 10 I don't know whether he told them that or not. 11 Q Do you know if anyone was ever 12 reprimanded for not punching in and out for 13 lunch? 14 A No official letter was written. 15 Q How about unofficially? 16 A It wouldn't have come from me, it 17 would've come from Raj. 18 Q So you don't know one way or the 19 other? 20 A No. 21 Q Do you know if there are any time 22 cards that show a worker punching in or out for 23 a lunch hour? 24 A I don't know. 25 Q Let's look at Exhibit 9. (Handing.)</p>

<p style="text-align: right;">Page 98</p> <p>1 DAVID SAPERSTEIN 2 A I don't know. 3 Q I think you said starting in '07, they 4 were paid through their checks for lunch hour? 5 A Correct. 6 Q Do you know if any of the workers were 7 told at that point that there was some amount in 8 their checks for lunch hour? 9 A I don't know. 10 Q Let's look at Exhibit 10. (Handing.) 11 Do you recognize those pages? 12 A Yes. 13 Q What are they? 14 A They're notification -- they're 15 notification and clarifications so the employees 16 understood that they had to -- that they were 17 going to take a break at their own discretion 18 and that it would be deducted from their -- from 19 their time card. 20 Q Is this a notice that you prepared? 21 A Yes. 22 Q And did you have someone translate it 23 into Spanish for the second paragraph? 24 A Yes. 25 Q Who made the translations for you?</p>	<p style="text-align: right;">Page 99</p> <p>1 DAVID SAPERSTEIN 2 A I think it was my ex-fiance at the 3 time. I don't remember. 4 Q When did you prepare this? 5 A Sometime in 2004. Late portion of 6 2004. 7 Q What caused you to do that? 8 A We attempted to have the employees 9 punch in and out on the time cards. But as I 10 said before, they, for whatever reason, they did 11 not do it. So this was the next best thing that 12 they understood what was going on. 13 Q This was a substitute for their 14 punching in and out? 15 A Yes. 16 Q Were you present when any of these 17 were given to the employees to sign? 18 A No. 19 Q Do you know who did give them to the 20 employees to sign? 21 A I gave them to Raj with the assistance 22 of Christian Cherrez, C-H-E-R-R-E-Z, who speaks 23 fluent English and Spanish, with the 24 instructions to explain the policy to those 25 signing it.</p>
<p style="text-align: right;">Page 100</p> <p>1 DAVID SAPERSTEIN 2 Q Who made the decision to give the 3 employees this type of notice? 4 A It was my idea to give the employees 5 the notice and Sam okayed it. 6 Q Had you been told at any time up to 7 when you prepared this notice that employees 8 were not taking meal breaks? 9 A No. 10 Q Did anyone ever complain to you or did 11 you learn of any complaints after this point 12 that employees were not taking meal breaks? 13 A No. 14 Q Did it ever come to your attention 15 that employees, for whatever reason, were 16 starting to work and working for a period of 17 time before they punched in? 18 A I'm sorry? 19 Q Did you ever learn that it was 20 happening, did anyone ever tell you that 21 employees were not punching in right when they 22 started working? That they were asked to wait 23 and punch in after working for some time? 24 A That they were asked to wait? 25 Q Or that they did wait?</p>	<p style="text-align: right;">Page 101</p> <p>1 DAVID SAPERSTEIN 2 A No. 3 Q Neither of those? 4 A No. 5 Q Okay. Did anyone ever complain to you 6 that they had been sent to work at a different 7 garage from the one they were usually assigned 8 to and they were not being paid for the time at 9 the other garage? 10 A There were isolated incidents where 11 either Raj forgot to put their hours on the 12 sheet or I did not pick it up. But for whatever 13 reason, the hours were missed. Raj would 14 receive the complaint and the hours would be 15 added in the following week. 16 Q Do you recall any specific instances? 17 A I don't recall specific instances, but 18 I know it happened once -- more than once with 19 Angelo Pena; and it happened, I believe, once 20 with Franklin Santana. It happened once with 21 one other employee. I just don't remember his 22 name. 23 Q What records, if any, would show the 24 missed hours being added in at a later time? 25 A On the following week's paystub, there</p>